MONTANA LEGISLATIVE HISTORY

Chapter 309 1981

Bill H 25 S _____ Original bill & history ✓ C

H. Committee on Admin			S. Committee on State Adm		
Hearing Date(s)	1/8	C	Hearing Date(s)	3/20	C
	1/8	C		3/24	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

ADMINISTRATION: 12/30/80
HEARING: 1/15
REPORT: DO PASS AS AMENDED, 1/15
ON MOTION, REREFERRED TO COMMITTEE ON APPROPRIATIONS: 1/15
HEARING: 1/19
REPORT: DO PASS AS AMENDED, 1/20
2ND READING: 1/23 YEAS: 89; NAYS: 0
3RD READING: 1/26 YEAS: 98; NAYS: 0

TRANSMITTED TO SENATE: 1/26
REFERRED TO COMMMITTEE ON FINANCE & CLAIMS: 1/27
HEARING: 2/14
REPORT: 2/14, BE CONCURRED IN
2ND READING: 2/17, BE CONCURRED IN
3RD READING: 2/19, YEAS: 47; NAYS: 1

RETURNED TO HOUSE: 2/19
TRANSMITTED TO GOVERNOR: 2/24
ACTION: SIGNED, 2/27
CHAPTER 23

HB 24--MOORE--TO INCLUDE ONE-WAY WINDOW PICTURES IN THE STATUTE PROHIBITING THE OBSTRUCTION OF A DRIVER'S VIEW....
PREFILED AND REFERRED TO COMMITTEE ON HIGHWAYS: 12/30/80
HEARING: 2/12
REPORT: DO NOT PASS, 2/12
REPORT: ADOPTED, 2/16
BILL KILLED: 2/16 YEAS: 84; NAYS: 9

HB 25--CONROY--TO AUTHORIZE PUBLIC AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES LOCATED IN MONTANA.
PREFILED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 12/30/80
HEARING: 1/8
REPORT: DO PASS, 1/8
2ND READING: 1/10 YEAS: 96; NAYS: 0
3RD READING: 1/12 YEAS: 98; NAYS: 1

TRANSMITTED TO SENATE: 1/12
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 1/13
HEARING: 3/20
REPORT: 3/25, BE CONCURRED IN
2ND READING: 3/27, BE CONCURRED IN
3RD READING: 3/31, YEAS: 47; NAYS: 3

RETURNED TO HOUSE: 3/31
TRANSMITTED TO GOVERNOR: 4/6
ACTION: SIGNED, 4/9
CHAPTER 309

HB 26--MOORE, BROWN, PAVLOVICH, ET AL--TO CONTROL AND REGULATE USE OF PRIVATE CONSULTANTS BY STATE AGENCIES.
PREFILED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 12/30/80
HEARING: 1/9
REPORT: DO PASS AS AMENDED, 2/12
2ND READING: 2/19, YEAS: 87; NAYS: 0
3RD READING: 2/24, YEAS: 94; NAYS: 2

TRANSMITTED TO SENATE: 2/24

HOUSE BILL NO. 25

INTRODUCED BY CONROY

BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on State Administration.
January 8, 1981	Committee recommend bill do pass. Report adopted.
January 10, 1981	Bill printed and placed on members' desks.
	Second reading, do pass.
January 12, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 13, 1981	Introduced and referred to Committee on State Administration.
March 25, 1981	Committee recommend bill be concurred in. Report adopted.
March 26, 1981	Second reading, pass consideration.
March 27, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.
	Third reading, concurred in. Ayes, 47; Noes, 3.

IN THE HOUSE

April 1, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

LC 0005/01

HOUSE BILL NO. 25

INTRODUCED BY CONROY

BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PUBLIC AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES LOCATED IN MONTANA; AMENDING SECTIONS 53-30-204 AND 87-1-228, MCA; AND REPEALING SECTION 20-3-333, MCA."

WHEREAS, it is in the best interest of the state of Montana to establish a legal framework that will enable this state, its political subdivisions, and Indian tribes to achieve maximum harmony and facilitate cooperative efforts in the orderly administration of their respective governments; and

WHEREAS, it is in the best interest of the state of Montana to establish a legal framework for viable agreements between itself and tribal governments located in Montana that are based on mutual consent and mutual benefit.

WHEREAS, it is in the best interest of the state of Montana to permit public agencies to make the most efficient use of their powers by enabling them to cooperate with tribal governments on a basis of mutual benefit and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of public agencies and local communities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [This act] shall be known and may be cited as the "State-Tribal Cooperative Agreements Act".

NEW SECTION. Section 2. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

(2) "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in Montana exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians.

NEW SECTION. Section 3. Authorization to enter agreement -- general contents. (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or

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tribal governments entering into the contract is authorized by law to perform. The agreement shall be authorized and approved by the governing body of each party to the agreement.

(2) The agreement shall set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

NEW SECTION. Section 4. Detailed contents of agreement. The agreement authorized by [section 3] shall specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose of the agreement;

(4) the manner of financing the agreement and establishing and maintaining a budget therefor;

(5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) when an agreement involves law enforcement:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement; and

(9) any other necessary and proper matters.

NEW SECTION. Section 5. Submission of agreement to attorney general. (1) As a condition precedent to an agreement made under [this act] becoming effective, it must have the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [this act] unless he finds it is not in proper form or does not meet the requirements set forth in [this act] or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for his disapproval.

(3) If the attorney general does not disapprove the

agreement within 30 days after its submission to him, it shall be considered approved by him.

NEW SECTION. Section 6. Agreements by state agencies -- requirements. As a condition precedent to an agreement made under [this act] by a state agency becoming effective, it must have, in addition to the approval of the attorney general under [section 5], the approval of the governor. The criteria and time for the governor's approval shall be the same as that for the attorney general's approval as provided in [section 5].

NEW SECTION. Section 7. Filing of agreement. Within 10 days after approval by the attorney general and prior to commencement of its performance, an agreement made pursuant to [this act] must be filed with:

(1) the secretary of the United States department of the interior;

(2) each county clerk and recorder of each county where the principal office of one of the parties to the agreement is located;

(3) the secretary of state; and

(4) the affected tribal government.

NEW SECTION. Section 8. Revocation of agreement. An agreement made pursuant to [this act] is subject to revocation by any party upon 6 months' notice to the other unless a different notice period of time is provided for

within the agreement. No agreement may provide for a notice period for revocation in excess of 5 years.

NEW SECTION. Section 9. Authorization to appropriate funds for purpose of agreement. Any public agency entering into an agreement pursuant to [this act] may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefor as is within its legal power to furnish.

NEW SECTION. Section 10. Specific limitations on agreements. Nothing in [this act] may be construed to authorize an agreement that:

(1) enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either the state of Montana or tribal governments located in Montana;

(2) authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country;

(3) authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws; or

(4) provides for the alienation, financial encumbrance,

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or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

NEW SECTION. Section 11. Validity of existing agreements. (1) Except as provided in subsection (2), [sections 1 through 10] do not effect the validity of any agreement entered into between a tribe and a public agency prior to July 1, 1981.

(2) However, any such agreement must satisfy the requirements of [sections 1 through 10] no later than July 1, 1983.

Section 12. Section 53-30-204, MCA, is amended to read:

"53-30-204. ~~Contracts~~ Cooperative agreements for services with governing body of Indian ~~reservation~~ tribe. ~~(1)~~ (1) The department of institutions may ~~contract~~ enter into agreements with the governing body of an Indian ~~reservation~~ tribe within the state for residential and educational services:

~~(i)~~(a) at Mountain View school, Pine Hills school, aftercare division, or other juvenile facility maintained by the department for children who have been adjudicated delinquent by the tribal court, subject to the provisions of this part and parts 1 and 2 of chapter 1; or

~~(ii)~~(b) at the Montana children's center for children who have been found by the tribal court to be dependent and neglected, subject to the provisions of [Title 80, chapter 21].

(2) Any agreement entered into under subsection (1) must also satisfy the requirements of [sections 1 through 11]."

Section 13. Section 87-1-228, MCA, is amended to read:

"87-1-228. Agreement with Indians concerning hunting and fishing -- Indian treaty of 1855. (1) Whereas, by treaty of July 16, 1855, between the United States of America, represented by Isaac I. Stephens, governor and superintendent of Indian affairs for the territory of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the said Indians were given the exclusive right to fish and hunt on the Flathead Indian reservation and the privilege of hunting in their usual hunting grounds on large areas of Montana; and whereas, nonmembers of such tribes have the right to hunt and fish on Indian lands by sufferance of such tribes only; and whereas, it appears to be to the common advantage of the state and such Indian tribes that hunting and fishing regulations and privileges on other lands of the state and on Indian lands shall be uniform and that hunting and fishing on such Indian

lands shall be in common with the public, now, therefore, the department may negotiate and conclude an agreement with the council of the Confederated Salish and Kootenai tribes of the Flathead Indian reservation for the purpose of:

(a) obtaining and establishing for the citizens of Montana, regularly licensed to hunt and fish in the state, the privileges of hunting and fishing on Indian lands on the Flathead Indian reservation;

(b) the conservation and protection of fish and game and fur-bearing animals on such Indian lands and on lands adjacent thereto;

(c) setting dates for the opening and closing of seasons for hunting and fishing on such lands for Indians and non-Indians alike, opening and closing of streams and land areas for hunting and fishing;

(d) doing what in its judgment is necessary by way of granting to such tribal Indians state permits to hunt and fish, to be issued without charge to such Indians;

(e) stocking streams and land areas of such Indian lands for the common benefit;

(f) policing such Indian lands for the protection of fish and game; and

(g) in general carrying out the purposes of this section.

(2) If any part of such agreement provides for the

payment of money to the tribes, that part must first have the approval of the state legislature.

(3) Any agreement entered into under subsection (1) must also satisfy the requirements of [sections 1 through 11]."

Section 14. Repealer. Section 20-3-332, MCA, is repealed.

-End-

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STATUS SHEET

STATE ADMINISTRATION COMMITTEE

47 Legislature

Bill No.	Subject matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 3	AN ACT TO ELIMINATE THE REQUIREMENTS THAT CITIES MUST PAY 100% OF THE PREMIUM FOR INSURANCE COVERAGE FOR FIREFIGHTERS & POLICEMEN;	1/5	SPILKER	1/8/81	DO PASS	1/9/81
HB 23	"AN ACT TO TERMINATE THE STATE AIRPLANE POOL AND TO AUTHORIZE SALE OR TRANSFER OF CERTAIN AIRCRAFT AND HANGARS;	1/5	DONALDSON	1/15/81	DO PASS AS AMENDED	1/15/81
HB 25	AN ACT TO AUTHORIZE PUBLIC AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES LOCATED IN MONTANA;	1/5	CONROY	1/8/81	DO PASS	1/8/81
HB 26	AN ACT TO CONTROL AND REGULATE THE USE OF PRIVATE CONSULTANTS BY STATE AGENCIES; AND PROVIDING AN EFFECTIVE DATE.	1/5	MOORE	~~no hearing held~~ 1/9/81	DO PASS AS AMENDED	2/12/81
HB 32	AN ACT AMENDING SECTION 5-2-302, MCA, RELATING TO COMPENSATION OF MEMBERS OF THE LEGISLATURE SERVING ON LEGISLATIVE COMMITTEES ~~WHEN NOT IN SESSION~~	1/5	MARKS	1/9/81	DO PASS AS AMENDED	1/9/81
HB 38	AN ACT TO AMEND SECTION 2-4-307, MCA, RELATING TO OMISSIONS FROM THE ADMINISTRATIVE RULES OF MONTANA OR MONTANA ADM. REGISTER.	1/5	STOBIE	1/9/81	~~DO NOT PASS~~ DO PASS AS AMENDED reconsidered 1/12 put into sub-com.	1/9/81 1/14/81

Form Cs-32
1-79

STATE ADMINISTRATION
JANUARY 8, 1981
RM 436

The meeting of the House State Administration Committee was held January 8, 1981 at 8:00 a.m. in room 436. Chairman Jerry Feda called the meeting to order. All members were present except Representatives Dussault and O'Connell who were excussed.

Chairman Feda opened the hearing on House Bill 3.

HB-3 SPONSOR REPRESENTATIVE BOBBY SPILKER introduced the bill to the committee. She stated that the bill had come out of an Interim Study Committee related to State Mandates. A brief summarization of the bill is attached. She also stated that this bill would give Local Government flexibility in providing insurance packages for employees. She said in the past many employers have dropped coverage because they had to pay 100%. Representative Spilker said she felt that this bill would give collective bargaining ability to the employees. Also, the bill would give back local government authority.

PROPONENTS

RICH BROWN, Mayor, city of Helena gave testimony in favor of HB-3. He said his concern was who should determine what coverage police officers and firefighters receive and who would pay for it. He felt the Legislature should provide the money for additional premium payments through collective bargaining or the same manner in which other taxes are levied.

CY JAMISON, City Councilmember from Billings, read a prepared statement in favor of HB-3. A copy of this statement is attached. EXHIBIT 1.

DAN MIEZNER, Montana League of C.I.A. gave brief testimony in favor of HB-3. He said some cities do not have the budget to pay for group insurance required for the Police Dept.

Other Proponents present at the hearing are listed on the attached visitor register.

OPPONENTS

RAY BLEHM, Montana State Firemens Assoc. gave testimony against HB-3 He felt that this bill would not allow negotiation of benefits when one group does not want a particular coverage. He said he would prefer to see the bill left as currently written and recommended the committee give a DO NOT PASS to HB-3.

Chairman Feda opened the hearing on House Bill 25.

HB-25 SPONSOR-REPRESENTATIVE THOMAS CONROY introduced the bill to the committee. He said that this bill was a result of four years of legislation dealing with Indian related problems. A brief summarization of the bill is attached.

PROPONENTS

MERLE LUCAS DCA/Indian Affairs gave testimony in support of HB-25. He explained that each tribe has their own problems and situations vary in different areas. He felt the bill provided the opportunity for states and tribes to enter into agreements that would be advantageous for both. He said that this bill would be especially good in areas of hunting and fishing regulations. He said this bill is not binding legislation but would provide means for tribes and states to work out really important local issues.

MIKE STEPHEN Montana Assoc. of Counties gave testimony in support of HB-25. He said they had been working with the Select Committee on Indian Affairs for two years. He felt this bill would allow flexibility needed to work out many personality and prejudicial problems amoung Indians and non-Indians.

Other proponents present at the hearing but not testifying are listed on the visitor register.

OPPONENTS

WAYNE BUCHANAN, Montana School Board gave testimony against HB-25. He said in some ways they felt the bill was good but that it should be amended so that school districts were not included. He said that even though this bill was not binding legislation, the school board would feel obligated to bargain with special interest groups. An example of this would be special Indian courses etc. in the school system.

There were no other opponents testifying on HB 25.

Questions from the committee followed.

Mueller: How many tribes are in favor of this bill?

Lucas: As of yesterday five out of seven tribes are in favor of the bill and we have not had much success in contacting the other tribe heads.

Mueller: In the latter part of the bill it talks about the hunting situation. Have the Kootenai and Salish Indians agree to the bill.

Lucus: Yes, to my knowledge.

Mueller: Has the Fish & Game Dept. agreed to this?

Lucus: Mr. F. W. Wright might want to answer that.

Mr. Wright, Dept. Fish & Wildlife: Each state does vary.

Further discussion was held on HB-25. The main concern was about the school district being affected by this legislation. The possiblity of amending the bill was discussed. It was decided by the committee that Mr. Buchanan's concerns did not warrant amendments to the bill since it is not binding.

Representative Conroy gave a closing statement on HB-25. He said that he felt Mr. Buchanan's fears were unfounded. He also said that this was a low budget piece of legislation compared to other bills that could come up.

EXECUTIVE SESSION:

Represenative Spilker requested that House Bill 3 be held in committee until she could get additional information on the employee dependents coverage & cost. This was agreed to by the committee.

Representative Pistoria made a motion that House Bill 25 receive a DO PASS. Representative Sales seconded the motion.

Question being called, a vote was taken and was unanimous that House Bill 25 DO PASS.

A motion was made to adjourn. The next meeting will be on January 9, 1981 at 8:00 a.m.

Respectfully Submitted,

G.C. JERRY FEDA, Chairman

Cathy Martin, Secretary

HOUSE STATE ADMINISTRATION

BILL SUMMARIES

January 8, 1981

HB 3 (SPILKER): Currently, a city must pay 100% of the premiums for insurance coverage for police officers and firefighters. This bill, requested by the Interim Study Committee on State Mandates and the Effects of State-owned Property on Local Governments, reduces a city's obligation by freezing its contribution at no less than the premium amount paid as of July 1, 1980. Additional premium payments beyond this amount may be negotiated through collective bargaining or other agreement processes.

HB 25 (CONROY): This bill, requested by the Select Committee on Indian Affairs, is patterned after a U. S. Senate bill, the Tribal-State Compact Act of 1980. This bill authorizes public agencies to enter into cooperative agreements with Montana Indian tribes without federal intervention. Agreements must be submitted for approval to the Attorney General, and in some cases, to the Governor. Provisions in the bill describe the contents of the agreements, filing and revocation procedures, appropriations of funds, and specific limitations on agreements. Also, two statutes are amended to conform with the provisions of the act.

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL HB 25 Date 1-8-81

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Mike Stephen	Helena	MT Assn of Co.	✓	
Wayne Buchanan	Helena	MT School Boards		✓
MERLE LUCAS	HELENA	DCA/INDIAN AFFAIRS	✓	
Jerry Thompson	HELENA	DCA/Ind. Affairs	✓	
T. C. Wright	Helena	DFCS		
Ella Seeber	Helena	Dept of Revenue	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 20, 1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 410 of the State Capitol Building at 10 a.m.

ROLL CALL: All members of the committee were present, excepting Senators Kolstad and Towe.

CONSIDERATION OF HOUSE BILL 789:

AN ACT AMENDING SECTION 22-10502,MCA, TO ALLOW THE STATE LAW LIBRARY OF THE STATE OF MONTANA TO OCCUPY QUARTERS IN BUILDINGS OTHER THAN THE STATE CAPITOL.

Rep. Yardley, sponsor, suggested they amend the section where the state law library will be located. The purpose of this bill will allow them to move it to the new building.

ACTION ON HOUSE BILL 789: Senator Ryan moved DO PASS; motion carried by those present. At this particular time, Senator Hammond had not arrived at the meeting.

CONSIDERATION OF HOUSE BILL 788:

AN ACT TO REQUIRE THE STATE ELECTRICAL BOARD TO ALLOW CERTAIN APPLICANTS TO TAKE LICENSE EXAMINATIONS.

Rep. Menahan, sponsor, suggested an amendment on line 20 to strike "or" and strike section 3. This bill allows people to take the test before becoming an electrician.

There were no proponents or opponents, so questions of the committee were asked.

Senator Ryan asked if all people have to go through the training, and the answer was yes. He asked if he understood that lines 20-24 were to be deleted but it is still subject to the same inspection. The answer was affirmative.

Senator Story asked who had asked for the bill, and Menahan said he did because some people were denied to take the test after they had completed a bona fide program.

Senator Johnson asked why they were denied, and he said they did not have proof that they had completed a bona fide program.

PROPONENTS: Peter Jackson, Western Environmental Association, said the fact remains that land for public use is a controversial issue and needs to be addressed and given a simple decision to satisfy the public, particularly land owners. This bill provides that.

OPPONENTS: Jim Flynn, Department of Fish, Wildlife and Parks, enclosed testimony.

Larry Fasbender, liaison for the governor, said the bill provides that the governor give approval to those lands purchased, and they oppose that. Rep. Curtiss wants to amend it to give authority to state land association. The governor is not the proper person to make that decision and the ones he appoints should make that decision, the State Lands Board. This bill politicizes the purchase of state lands. They oppose the bill.

Questions: Senator Hafferman mentioned to Mr. Flynn that Lincoln County has land that may be purchased from private enterprise to expand. He was answered by Mr. Flynn that possible unseen circumstances may mitigate a loss of some sort; for example, the dam construction. That loss must be compensated for some other place. They are putting on other unnecessary approval and funding.

Senator Hammond said the problem is that this bill points to the fact that it is necessary for the fish and game to own land. Why cannot they lease land and leave it on the tax rolls. Mr. Flynn remarked that 1/2 of all they have is leased. Senator Hammond pointed out that Ducks Unlimited in Canada is almost all leased. Mr. Flynn replied that their organization has had the money in the past to buy land, but this may not continue in the future. They have a mandate to purchase so much land every year for fishing. He concurred that possible leasing will have to be investigated.

In closing Rep. Curtiss gave an estimated tax amount was to be found to be between $9,000 and $49,000. The transfer would be political. She said agencies as a state government should be responsible to the people of the state. To buy and sell real estate has not been in the best interest of the taxpayers.

CONSIDERATION OF HOUSE BILL 25:

AN ACT TO AUTHORIZE PUBLIC AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES LOCATED IN MONTANA.

Rep. Tom Conroy, sponsor, said this bill is a result of four years of litigation and investigating the law allowing the law and order of the Crow tribe. He gave a history of how it

came about. The legislature was trying to open dialogue with the Indians to accommodate some of the problems that had arisen. A message he has received from the Indians indicates they are pleased.

This bill enables legislation and does not say they have to enter into an agreement. He stated that government bodies would benefit by a cooperative agreement. It will benefit the Indians and non-Indians of Montana.

PROPONENTS: Senator Patrick Ryan expressed his support; Terry Thompson, representing the Bureau of Indian Affairs; and Rod Sayegusa, Montana Inter-Tribal Policy Board.

OPPONENTS: Rep. Carl Seifert had chaired the hearing on two reservations. The tribal boards thought it would be neither helpful nor detrimental. In Browning they said they would not work with the state unless they recognized them as a sovereign nation; this attitude also came up on the Flathead. He feels it may not accomplish anything.

Walter Hammermeister, Sheriff of Pondera Co., feels that they have a good working relationship with the tribes. The laws on the book allow all the cooperation. If this bill is passed, the public agencies and tribes must do what the legislation says. They already have the means and the authority listed on page 11.

It is not needed for law enforcement as specified on page 4, lines 1-12. The laws presently on the books provide more answers than this bill. The Blackfeet were opposed and gave no support at a hearing last summer and this was also the feeling at the Ponderosa. The intention of HB 25 as it is spelled out in the preamble gives the attorney general control of departments that are run by the governor.

Senator Nelson, opponent, submitted and read testimony of another individual in Glacier County. He also submitted his own testimony and James C. Nelson's testimony.

Questions: Senator Johnson asked Rep. Conroy about the six-month cancellation notice. If one wanted to put out that contract, it would be in effect for 6 months. This answer was correct. She then asked which law would rule. The answer was either side could terminate the contract by written agreement.

Senator Johnson asked what would be the result of a dispute, and the answer was that this agreement has to be entered into with the Department of Interior. She then asked which law rules supreme and was told that it would be a court case.

Senator Ryan asked what jurisdiction does Mr. Hammermeister have now. He was answered that in the hearings they did not feel the laws were adequate. He has been informed that Montana law is inadequate. The Crows and other tribes want this bill.

Senator Johnson was reaffirmed that the major thrust of this bill is for law enforcement. Senator Ryan made it clear he understood that if one party does not like it, they do not have to participate in it.

Senator Hammond asked about the jurisdiction within the state and was answered by Rep. Conroy that this bill addresses that with the consent of the Dept. of Interior. He left a book that gives the history of what they did during the hearings.

The meeting was adjourned at 12:05.

Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 3-2

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan	✓		
Senator Thomas Towe		✓	

Each day attach to minutes.

The Big Sky Country

MONTANA STATE SENATE

Sen. Harold C. Nelson
District No. 7
Home Address:
704 3rd St. N.E.
Cut Bank. Montana 59427
Helena Address:
Capitol Station
Box 101
Helena, Montana 59620

Committees:
Labor & Employment Relations—Chairn
Finance and Claims

The only way I could see any advantage to H.B. 25 would be with an amendment that would require:

(a) Prior approval of any such agreement by the Secretary of the Interior before it would become effective and that the approval by the Secretary would override (or act as a repeal of) and Federal or Tribal Law, regulation, or rule which might otherwise render such agreement illegal or invalid

(b) That by such approval of any such agreement by the Secretary, the United States would automatically become a party to such agreement; that such agreement would be enforceable against the United States; and that the approval of the Secretary would constitute consent by the United States; and the Indian tribe, to being sued in any lawsuit involving such agreement in the United States District Court of the District wherein the Reservation of the contracting Indian tribe is located.

One Further Problem

Federal law prohibits seizure of tribal property to satisfy a judgment---This act would have to be amended to allow the enforcement of a judgment recovered in such a lawsuit though the seizure of sale of tribal property.

NAME: Rod Sayegusa DATE: 3/20/81

ADDRESS: RR#2, Box 422, Clancy, MT.

PHONE: 933-5712

REPRESENTING WHOM? Montana Inter-Tribal Policy Board.

APPEARING ON WHICH PROPOSAL: HB-25.

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: Walter L. Hammermeister DATE: Mar 20, 198

ADDRESS: Box 958 Conrad, Montana 59425

PHONE: O 278-3923 H 278-3163

REPRESENTING WHOM? Sheriff & Pondera Co.

APPEARING ON WHICH PROPOSAL: HB 25

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE 3-20

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check Support
Terry L Thompson	DCA/Coordinator of Indian Affairs office	AB 25	✓
Owen Nelson	MEA	71	✓
Jim FLYNN	DEPT FWP	HB766	

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppo
Walt. L. Hammermeister	Sheriff of Powder R	HB SB 25		✓
Betti Christie	Office of Public Instruction	71	—	—
David Fuzak	Montana Univ Sys	71		✓
Lee Bernardi	MEA.			
Tom Birkett	DBA			
DAVID SEXTON	MONT. EDUC ASSN.	71	✓	
Dave Engel	State Labor	789	✓	
ALAN OSTBY	COMMON CAUSE	HB 71	—	—
Ezra E. Anderson	MT. Petroleum Assn	HB 766	✓	
Walt Shadduck	Mt. Assn of Counties			
Peter Gordon	self	HB 766	✓	
Harold C. Nelson	Senator Dist 7	HB 25		
ROD SAYEGUSA	MONTANA INTER-TRIBAL POLICY BOARD	H B-25	X	

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 24, 1981

The Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date in room 442 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members of the committee were present.

ACTION ON HOUSE BILL 71: Amendments were submitted by Legislative Council aide, John Hollow, and discussed with the committee. They discussed public notice, protesting rules, amendments from the house, school board feelings, qualifications for giving reasonable notice and the provision for emergency notice. Sen. Johnson moved the amendments do pass; motion carried except for a No vote by Sen. Towe. Sen. Johnson moved bill DO PASS, AS AMENDED; motion carried by majority with Senator Story voting No.

ACTION ON HOUSE BILL 25: The committee discussed the fact that this bill will go on a tribe by tribe basis. Sen. Ryan moved DO PASS; motion carried unanimously, and he will carry it on the Senate floor. See roll call vote.

ACTION ON HOUSE BILL 97: There was discussion by Senator Towe and suggestions by John Hollow. Sen. Towe moved an amendment; passed; he then moved the bill DO PASS, AS AMENDED; motion carried with Sen. Hafferman voting No. Sen. Towe will carry it on the floor. See standing committee report for amendments.

ACTION ON HOUSE BILL 329: Discussion revealed that the bill had been amended to be like Senator Story's bill. The committee discussed striking the word "disapprove" and inserting "recommend disapproval". See standing committee for amendments that were passed by unanimous vote. Sen. Story said this adopts his final list and his intention is to pass this bill and forget his. Senator Towe moved they pass the amendment as amended; motion carried. He then moved the bill DO PASS, AS AMENDED; motion carried unanimously. Sen. Story will carry the bill.

ACTION ON HOUSE BILL 330: Sen. Towe moved the amendments do pass; motion carried; then he moved the bill DO PASS, AS AMENDED; motion carried by majority with Senators Ryan, Johnson, and Kolstad voting No. See standing committee report for the amendments.

25

STANDING COMMITTEE REPORT

March 24 8.
19....

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE 25 Bill No.

CONROY (RYAN)

Respectfully report as follows: That HOUSE 25 Bill No.

BE CONCURRED IN

~~DO PASS~~

PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

24

ROLL CALL VOTE RECORD

SENATE COMMITTEE STATE ADMINISTRATION

Date March 24, 1981 Bill No. 25 Time

NAME	DO PASS YES	NO
Senator Pete Story, Chairman	X	
Senator Allen Kolstad, V. Chairman	X	
Senator William Hafferman	X	
Senator H. W. Hammond	X	
Senator Jan Johnson	X	
Senator Patrick Ryan	X	
Senator Thomas Towe	X	

Barbara Simic
Secretary

Pete Story
Chairman

Motion: Senator Ryan moved DO PASS; motion carried by unanimous vote.

(include enough information on motion--put with yellow copy of committee report.)

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HOUSE BILL NO. 25

INTRODUCED BY CONROY

BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PUBLIC AGENCIES TO ENTER INTO COOPERATIVE AGREEMENTS WITH INDIAN TRIBES LOCATED IN MONTANA; AMENDING SECTIONS 53-30-204 AND 87-1-228, MCA; AND REPEALING SECTION 20-3-333, MCA."

WHEREAS, it is in the best interest of the state of Montana to establish a legal framework that will enable this state, its political subdivisions, and Indian tribes to achieve maximum harmony and facilitate cooperative efforts in the orderly administration of their respective governments; and

WHEREAS, it is in the best interest of the state of Montana to establish a legal framework for viable agreements between itself and tribal governments located in Montana that are based on mutual consent and mutual benefit; and

WHEREAS, it is in the best interest of the state of Montana to permit public agencies to make the most efficient use of their powers by enabling them to cooperate with tribal governments on a basis of mutual benefit and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of public agencies and local communities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [This act] shall be known and may be cited as the "State-Tribal Cooperative Agreements Act".

NEW SECTION. Section 2. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

(2) "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in Montana exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians.

NEW SECTION. Section 3. Authorization to enter agreement -- general contents. (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or

REFERENCE BILL

tribal governments entering into the contract is authorized by law to perform. The agreement shall be authorized and approved by the governing body of each party to the agreement.

(2) The agreement shall set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

NEW SECTION. Section 4. Detailed contents of agreement. The agreement authorized by [section 3] shall specify the following:

(1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose of the agreement;

(4) the manner of financing the agreement and establishing and maintaining a budget therefor;

(5) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for administering the agreement, which may include creation of a joint board responsible for such administration;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) when an agreement involves law enforcement:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement; and

(9) any other necessary and proper matters.

NEW SECTION. Section 5. Submission of agreement to attorney general. (1) As a condition precedent to an agreement made under [this act] becoming effective, it must have the approval of the attorney general of Montana.

(2) The attorney general shall approve an agreement submitted to him under [this act] unless he finds it is not in proper form or does not meet the requirements set forth in [this act] or otherwise does not conform to the laws of Montana. If he disapproves an agreement, he shall provide a detailed, written statement to the governing bodies of the public agency and tribal government concerned, specifying the reasons for his disapproval.

(3) If the attorney general does not disapprove the

agreement within 30 days after its submission to him, it shall be considered approved by him.

NEW SECTION. Section 6. Agreements by state agencies -- requirements. As a condition precedent to an agreement made under [this act] by a state agency becoming effective, it must have, in addition to the approval of the attorney general under [section 5], the approval of the governor. The criteria and time for the governor's approval shall be the same as that for the attorney general's approval as provided in [section 5].

NEW SECTION. Section 7. Filing of agreement. Within 10 days after approval by the attorney general and prior to commencement of its performance, an agreement made pursuant to [this act] must be filed with:

(1) the secretary of the United States department of the interior;

(2) each county clerk and recorder of each county where the principal office of one of the parties to the agreement is located;

(3) the secretary of state; and

(4) the affected tribal government.

NEW SECTION. Section 8. Revocation of agreement. An agreement made pursuant to [this act] is subject to revocation by any party upon 6 months' notice to the other unless a different notice period of time is provided for

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within the agreement. No agreement may provide for a notice period for revocation in excess of 5 years.

NEW SECTION. Section 9. Authorization to appropriate funds for purpose of agreement. Any public agency entering into an agreement pursuant to [this act] may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefor as is within its legal power to furnish.

NEW SECTION. Section 10. Specific limitations on agreements. Nothing in [this act] may be construed to authorize an agreement that:

(1) enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either the state of Montana or tribal governments located in Montana;

(2) authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country;

(3) authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws; or

(4) provides for the alienation, financial

encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

NEW SECTION. Section 11. Validity of existing agreements. (1) Except as provided in subsection (2), [sections 1 through 10] do not effect the validity of any agreement entered into between a tribe and a public agency prior to July 1, 1981.

(2) However, any such agreement must satisfy the requirements of [sections 1 through 10] no later than July 1, 1983.

Section 12. Section 53-30-204, MCA, is amended to read:

"53-30-204. ~~Contracts~~ Cooperative agreements for services with governing body of Indian ~~reservation~~ tribe. (1) The department of institutions may ~~contract~~ enter into agreements with the governing body of an Indian ~~reservation~~ tribe within the state for residential and educational services:

~~(1)~~(a) at Mountain View school, Pine Hills school, aftercare division, or other juvenile facility maintained by the department for children who have been adjudicated delinquent by the tribal court, subject to the provisions of

this part and parts 1 and 2 of chapter 1; or

~~(2)~~(b) at the Montana children's center for children who have been found by the tribal court to be dependent and neglected, subject to the provisions of [Title 80, chapter 21].

(2) Any agreement entered into under subsection (1) must also satisfy the requirements of [sections 1 through 11]."

Section 13. Section 87-1-228, MCA, is amended to read:

"87-1-228. Agreement with Indians concerning hunting and fishing -- Indian treaty of 1855. (1) Whereas, by treaty of July 16, 1855, between the United States of America, represented by Isaac I. Stephens, governor and superintendent of Indian affairs for the territory of Washington, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend Oreille Indians, the said Indians were given the exclusive right to fish and hunt on the Flathead Indian reservation and the privilege of hunting in their usual hunting grounds on large areas of Montana; and whereas, nonmembers of such tribes have the right to hunt and fish on Indian lands by sufferance of such tribes only; and whereas, it appears to be to the common advantage of the state and such Indian tribes that hunting and fishing regulations and privileges on other lands of the state and on Indian lands

shall be uniform and that hunting and fishing on such Indian lands shall be in common with the public, now, therefore, the department may negotiate and conclude an agreement with the council of the Confederated Salish and Kootenai tribes of the Flathead Indian reservation for the purpose of:

(a) obtaining and establishing for the citizens of Montana, regularly licensed to hunt and fish in the state, the privileges of hunting and fishing on Indian lands on the Flathead Indian reservation;

(b) the conservation and protection of fish and game and fur-bearing animals on such Indian lands and on lands adjacent thereto;

(c) setting dates for the opening and closing of seasons for hunting and fishing on such lands for Indians and non-Indians alike, opening and closing of streams and land areas for hunting and fishing;

(d) doing what in its judgment is necessary by way of granting to such tribal Indians state permits to hunt and fish, to be issued without charge to such Indians;

(e) stocking streams and land areas of such Indian lands for the common benefit;

(f) policing such Indian lands for the protection of fish and game; and

(g) in general carrying out the purposes of this section.

(2) If any part of such agreement provides for the payment of money to the tribes, that part must first have the approval of the state legislature.

(3) Any agreement entered into under subsection (1) must also satisfy the requirements of [sections 1 through 11]."

Section 14. Repealer. Section 20-3-333, MCA, is repealed.

-End-